

FINDING	HARM	DISCIPLINE INDIVIDUAL	DISCIPLINE FACILITY
PT DM created fraudulent prescriptions for oxycodone for personal use and to sell.	N/A	DM's PT registration expired 10/31/16, and may not be renewed until she applies to the Board for reinstatement.	N/A
PT DP diverted controlled substances from his employing pharmacies for personal use and to sell.	N/A	DP's PT registration expired 10/31/16, and may not be renewed until he applies to the Board for reinstatement.	N/A
RPH RA misfilled a prescription for mirtazepam with temazepam and failed to adequately counsel the patient.	Non-ingested.	RA to receive a letter of admonition, pay a \$750 fine, and complete two additional CEs on error prevention and one CE on effective counseling.	Pay an administrative fee of \$500.
PT JC worked 5 days without a valid technician license. RPH MF was the managing pharmacist and RPH was the technician supervisor.	N/A	RPHs fined \$200, receive a letter of admonition and complete two additional CEs on the topic of pharmacy manager responsibilities. JC fined \$200, receive a letter of admonition and complete two additional CEs on the topic of ethics.	Fined \$500, an administrative fee of \$495 and amend policies and procedures designed to prevent individuals from working without a valid license or registration.
WC Pharmacy committed numerous sterile compounding violations.	Complainant experienced infection at injection site.	N/A	Fined \$1,000 and an administrative fee of \$2,500. WC cannot engage in making any sterile compounded drug product. Provide the Board written policies and procedures for non-sterile compounding.

MATRIX GUIDELINE FOR DISCIPLINARY ACTIONS

	1st Action	2nd Action	3rd Action
Non ingested error	Letter	Letter	Hearing
No counseling	\$750.00	Counseling CE + \$1000.00	Hearing
Administrative fee	\$495.00	\$495.00	\$495.00
Ingested no potential harm	\$500.00	\$1000.00	Hearing
Ingested with potential harm or adverse outcomes	\$1000.00	Hearing	Hearing
Ingested with negative outcome or patient discomfort. No institution intervention	Hearing	Hearing	Hearing
Ingested with significant negative health circumstance. With institution admit	Hearing	Hearing	Hearing
Ingested with death related to inappropriate drug therapy	Hearing	Hearing	Hearing

The investigative committee will review each case individually and may recommend a board hearing, particularly with mitigating circumstances such as inappropriate technician involvement or pharmacist malfeasance.

In certain cases with ingested errors and significant negative health circumstances requiring institutional care, the investigative committee recommendation will be a board hearing.

In all death cases resulting from inappropriate drug therapy a board hearing will occur.

Attorney fees will be added costs in contested disciplinary actions requiring extensive attorney preparation and presentation and are not described in the above matrix.

The board has directed that ownership may be charged in disciplinary cases. In non-ingested errors copies of admonition letters will be sent to management. Accumulative actions for ownership monitoring will be based upon a 3 year period. All actions including non-ingested errors will be given a case number and monitored.

The Board has the authority to fine from \$0.00 to \$10,000 for each Cause of Action.

Updated August 2014

DISCIPLINE GUIDE

Following a board hearing:

Make Finding

Declare all charges in aggregate or specifically by individual charge; requires motion and second to:

1. Dismiss
2. Find Not Guilty
3. Find Guilty

Cost of Hearing

Make a motion that all costs of the hearing will be awarded.

1. Specify who will pay these costs, and
2. What timeframe the payment shall be made

Alternative Requirements for Potential Terms of Probation

Alternative disciplines must be a condition of probation. Make a motion for probation; include terms, conditions, timeframe and anticipated result to be obtained by alternative disciplines. Alternatives include, but are not limited to:

1. Examination - Respondent takes some type of test.
2. Continuing Education (specify particular area of education, i.e., counseling)
3. Peer review, sponsored internship
4. Limited License Authority (i.e., no employment in dispensing, no managing)
5. PRN-PRN
6. Provide documents of Policies and Procedures, programs or inservice training.
7. Improve workflow, work place - document changes, use inspections.
8. Order physical or mental evaluation

Penalties

Make a motion; include amount, timeframe or stay of:

1. Fines - up to \$10,000 per charge or by Matrix
2. Suspension
3. Revocation

NOTE: Respondent can request a rehearing; upon revocation, a request can be made for reinstatement of license after one year.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

MOSTAQUL HUQ, RPH

Certificate of Registration No. 18974

WALGREENS PHARMACY #12488

Certificate of Registration No. PH02741

Respondents.

CASE NO. 16-041-RPH-N
16-041-PH-N

NOTICE OF INTENDED ACTION AND ACCUSATION

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, Respondent Mostaqul Huq (Mr. Huq) was a pharmacist licensed by the Board, and Respondent Walgreens Pharmacy #12488 (Walgreens) was a pharmacy licensed by the Board.

FACTUAL ALLEGATIONS

II.

Patient W.R. filed a complaint with the Board Office alleging that on or about April 16 2016, Walgreens filled and dispensed niacin 500 mg. tablets instead of the niacinamide 500 mg. tablets prescribed by his physician.

III.

On April 11, 2016, W.R. saw his physician for the treatment of recurring skin cancers, and subsequently prescribed sixty (60) niacinamide 500 mg. tablets with instructions to take one tablet by mouth twice a day.

IV.

W.R. presented the prescription to Walgreens on April 16, 2016, which filled and dispensed it that same day. A pharmaceutical technician scanned the prescription into the pharmacy's computer system in preparation for data entry.

V.

Mr. Huq retrieved the scanned prescription and began the data entry process. During data entry, Mr. Huq discovered that the niacinamide tablets prescribed were not in stock.

VI.

Mr. Huq assumed the niacinamide was prescribed as a vitamin supplement. He was not aware that the doctor prescribed it to reduce the incidence of nonmelanoma skin cancers.

VII.

Mr. Huq believed that niacin is the pharmacological equivalent of niacinamide and entered niacin in the data field.

VIII.

Mr. Huq approved the data entry and forwarded it to the fill queue. Mr. Huq did not contact the prescriber regarding the change to niacin.

IX.

Pharmaceutical technician Meghan Tolley retrieved the prescription and filled it with #60 500 mg. niacin tablets. She staged the prescription for product verification.

X.

Mr. Huq performed the final product verification and staged the prescription for customer pick-up.

XI.

At 4:55 p.m., W.R.'s friend R.C. arrived at the pharmacy to pick up the prescription. During counseling, Mr. Huq advised R.C. that in the future, a written prescription is not needed

to purchase over-the-counter drugs.¹ He did not inform R.C. that he dispensed niacin instead of niacinimide as prescribed.

XII.

On June 13, 2016, W.R. had a follow-up examination with his physician. W.C. reported that he was experiencing headaches, nausea, elevated blood pressure and muscle cramps.

XIII.

During that examination, the physician discovered that the pharmacy misfilled W.R.'s niacinimide prescription with niacin.

XIV.

At the time the error was discovered, W.C. had ingested fifty-six (56) of the wrong medication.

FIRST CAUSE OF ACTION

XV.

NAC 639.945(1)(d) defines unprofessional conduct to include the failure by a licensee to follow strictly the instructions of a prescriber when filling, labeling and dispensing a prescription. Unprofessional conduct also includes performing duties in an "incompetent, unskillful or negligent manner" *See* NAC 639.945(1)(i). Mr. Mostaqul Huq violated NAC 639.945(1)(d) and/or (i) by verifying, labeling and dispensing niacin 500 mg. tablets to W.R., when his prescriber prescribed niacinamide 500 mg. tablets.

SECOND CAUSE OF ACTION

XVI.

NRS 639.266 requires a pharmacist, on receipt of a prescription and after review of the patient's record, to communicate with the patient, or a person caring for the patient, matters that will enhance the patient's therapy through drugs. NAC 639.707(1) and (2) require that discussion to include, among other things, the name of the drug, dosage and administration instructions, the intended use of the drug, common side effects, and other information that is

¹ Niacin and/or niacinimide are available as over-the-counter products that do not require a prescription.

necessary for the safe and effective use of the drug. Further, NAC 639.945(1)(i) defines unprofessional conduct to include performing duties in an "incompetent, unskillful or negligent manner" See NAC 639.945(1)(i).

Here, Mr. Mostaqul Huq violated NRS 639.266, NAC 639.707(1) and (2), and NAC 639.945(1)(i), when he failed to adequately counsel by not informing W.R.'s friend R.C. at the time R.C. picked up the medication, that he dispensed niacin instead of niacinimide as prescribed.

THIRD CAUSE OF ACTION

XVII.

NAC 639.945(2) states that "[t]he owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ".

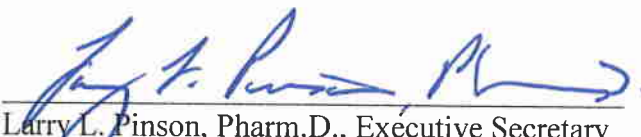
Repondent Mr. Mostaqul Huq is Walgreens's employee. As such, Walgreens is responsible for each of the violations alleged herein.

XVIII.

The violations alleged above, including in each cause of action, are grounds for discipline against the licenses of Mostaqul Huq and/or Walgreens #3680 pursuant to NRS 639.210(4), (11) and/or (12), as well as NRS 639.255.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of these respondents.

Signed this 19th day of January, 2017.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

NEVADA STATE BOARD OF PHARMACY,)	STATEMENT TO THE RESPONDENT
)	NOTICE OF INTENDED ACTION
Petitioner,)	AND ACCUSATION
v.)	RIGHT TO HEARING
)	
MOSTAQUL HUQ, RPH)	CASE NO. 16-041-RPH-N
Certificate of Registration No. 18974)	
)	
Respondent.	/	

I.

II.


III.

-1-

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 19th day of January, 2017.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	ANSWER AND
)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
MOSTAQUL HUQ, RPH)	CASE NO. 16-041-RPH-N
Certificate of Registration No. 18974)	
)	
Respondent.)	
	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections, or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of January, 2017.

MOSTAQUL HUQ, R.PH.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	ANSWER AND
)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
WALGREENS PHARMACY #12488)	CASE NO. 16-041-PH-N
Certificate of Registration No. PH02741)	
)	
Respondent.	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none")

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of January, 2017.

Type or print name

AUTHORIZED REPRESENTATIVE FOR
WALGREENS PHARMACY #12488

FILED

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NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

LAKSHMI SRIHARSHA BINGI, RPH

Certificate of Registration No. 19160

SAFEWAY PHARMACY #2255

Certificate of Registration No. PH00688

Respondents.

) **CASE NO. 16-069-RPH-N**

) **16-069-PH-N**

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**NOTICE OF INTENDED ACTION
AND ACCUSATION**

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, Respondent Lakshmi Sriharsha Bingi (Mr. Bingi) was a pharmacist licensed by the Board, and Respondent Safeway Pharmacy #2255 (Safeway) was a pharmacy licensed by the Board.

FACTUAL ALLEGATIONS

II.

On or about October 13, 2016, Amie Clark (Ms. Clark) filed a complaint with the Board Office on behalf of her sixteen year old daughter H.C. In the complaint, Ms. Clark alleges that Safeway pharmacist Bingi administered a flu vaccine to her minor daughter without parental consent. Ms. Clark indicated in the complaint that her daughter is allergic to eggs. Ms. Clark alleges that H.C. suffered an allergic reaction which she attributes to the administration of the flu vaccine.

III.

On October 12, 2016, H.C. picked up her grandmother's prescription medications from Safeway Pharmacy.

IV.

While picking up the medications, pharmaceutical technician Sheree Williams encouraged H.C. to get a flu shot.

V.

Sixteen year old H.C. completed and signed the immunization consent form.¹ The consent form requires the signatory to be of legal age. If the recipient is not of legal age, a parent or guardian is required to sign the consent form.

VI.

Mr. Bingi entered H.C.'s prescription data into the pharmacy system. Safeway's system generated a prescription label that contained the required labeling information including the patient's date of birth. Mr. Bingi applied the prescription label to the consent form.

VII.

Mr. Bingi then checked the Nevada Statewide Immunization Information System (WebIZ) to review the record of H.C.'s immunization history. He learned that H.C. received a flu vaccine during a hospital stay in 2009. The WebIZ report did not indicate that H.C. experienced an allergic reaction to the vaccine in 2009.

VIII.

Mr. Bingi administered the flu vaccine to H.C.

IX.

When H.C. returned home from Safeway, she allegedly developed a rash and shortness of breath.

¹ H.C. marked "no" to the questions on the consent form regarding food and/or medication allergies.

X.

The Safeway Pharmacy #2255 immunization protocol is outlined in the Immunization – Nevada Authorizing Prescriber Statement, Protocol and Collaborative Practice Agreement for Immunizations/Vaccinations dated February 10, 2016.

XI.

The immunization protocol criteria states that if the recipient is a minor child, his/her parent or guardian will be asked to disclose certain health information pertaining to the child. The parent or guardian will also be informed about the benefits and risks of each immunization/vaccine being administered. The protocol also gives the parent or guardian the option to opt out of the WebIZ data collection sent to the Division of Behavioral Health of the Nevada Department of Health. The criteria further states that parental consent will be obtained prior to administration.

XII.

Mr. Bingi deviated from protocol by administering a vaccine to a minor child without parental consent.

XIII.

In a written statement, Mr. Bingi indicates that he checked the WebIZ and learned that H.C. had received a flu vaccine in 2009. He stated that he overlooked the patient's age and did not realize the patient was a minor.

FIRST CAUSE OF ACTION

XIV.

NAC 639.945(1)(i) defines unprofessional conduct to include a licensee performing his or her duties in an "incompetent, unskillful or negligent manner". Mr. Lakshmi Sriharsha Bingi violated NAC 639.945(1)(i) by deviating from a physician's written protocol by administering an immunization to a minor child without parental consent.

SECOND CAUSE OF ACTION

XV.


NAC 639.945(2) states that "[t]he owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ".
Respondent Mr. Lakshmi Sriharsha Bingi is Safeway's employee. As such, Safeway is responsible for each of the violations alleged herein.

XVI.

The violations alleged above, including in each cause of action, are grounds for discipline against the licenses of Lakshmi Sriharsha Bingi and/or Safeway Pharmacy #2255 pursuant to NRS 639.210(4), (11) and/or (12), as well as NRS 639.255.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of these respondents.

Signed this 19th day of January, 2017.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

LAKSHMI SRIHARSHA BINGI, RPH
Certificate of Registration No. 19160

Respondent.

) **STATEMENT TO THE RESPONDENT**
) **NOTICE OF INTENDED ACTION**
) **AND ACCUSATION**
) **RIGHT TO HEARING**
)

) **CASE NO. 16-069-RPH-N**
)
)
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TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

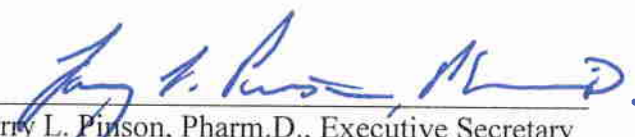
III.

The Board has scheduled your hearing on this matter for Wednesday, March 1, 2017, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 19th day of January, 2017.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

FILED

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NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	ANSWER AND
)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
LAKSHMI SRIHARSHA BINGI, RPH)	CASE NO. 16-069-RPH-N
Certificate of Registration No. 19160)	
)	
Respondent.)	
	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections, or insert "none").

— NONE —

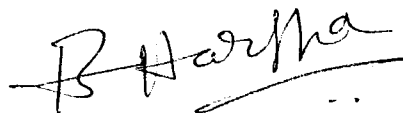
2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

- Admits -

I admit to the accusation mentioned in the Subpoena.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 31 day of January, 2017.



LAKSHMI SRIHARSHA BINGI, R.PH.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	ANSWER AND
)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
SAFEWAY PHARMACY #2255)	CASE NO. 16-069-PH-N
Certificate of Registration No. PH00688)	
)	
Respondent.	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none")

None.

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

See attached.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 3 day of ~~January~~, 2017.

February

Anthony Provenzano
Type or print name

Anthony Provenzano
AUTHORIZED REPRESENTATIVE FOR
SAFEWAY PHARMACY #2255

Friday, February 03, 2017

S. Paul Edwards
General Counsel
Nevada State Board of Pharmacy
431 W Plumb Lane
Reno, NV 89509

FEB - 7 2017

Dear Mr. Edwards,

On behalf of Safeway Pharmacy #2255 in response to Nevada State Board of Pharmacy Case No. 16-069-PH-N, Safeway respectfully admits, denies, and requests the Board's consideration of the following:

As to the First Cause of Action as defined in paragraph XIV of the Notice of Intended Action and Accusation, Safeway admits, as Mr. Bingi has admitted, that Mr. Bingi deviated from the written protocol in administering an immunization to a minor child without first obtaining parental consent. However, Safeway denies that it was incompetent, unskillful, or negligent in the performance of its duties as a Board licensee in that it had appropriately developed, implemented, and communicated through its policies and established procedures an expectation that pharmacy employees must strictly comply with all applicable laws in the state in which they practice.

As to the Second Cause of Action, paragraphs XV and XVI, Safeway admits that Mr. Bingi was employed by Safeway at the time of this occurrence and that NAC 639.945(2) imposes responsibility by an employer for the acts of "personnel in his or her employ." However, Safeway denies that the licensee Safeway Pharmacy #2255 is the owner of the business that employs Mr. Bingi or that it has the capacity to perform its duties in an incompetent, unskillful, or negligent manner. Instead, it is simply the licensed location at which the services in question were performed and Safeway objects to the imposition of discipline against this license.

For the reasons stated above, Safeway requests the opportunity to, through its representatives, appear before the Board and further explain why it believes it met its obligations under Nevada law and should not be subject to discipline for violations of NRS 639.210(4), (11) and/or (12), or as referenced above, as permitted by NRS 639.255.

Sincerely,



Anthony Provenzano
VP, Pharmacy Compliance and Regulatory Affairs
Albertsons Companies
(208)395-3354

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